

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	16-00138-01-CR-W-GAF
DARRELL L. GIVENS,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on November 16, 2016. Defendant Darrell Givens appeared in person and pro se. Kurt Marquart appeared as stand-by counsel. The United States of America appeared by Assistant United States Attorney Mike Green.

I. BACKGROUND

On April 20, 2016, an indictment was returned charging defendant with one count of possessing PCP with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); one count of possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c); and one count of possessing a firearm after having been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Green announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Eric DeValkenaere, Kansas City, Missouri, Police Department.

Defendant announced that he will be represent himself at trial.

III. OUTSTANDING MOTIONS

The following motions are currently pending:

1. Motion to suppress, filed out of time by defendant on October 7, 2016 (document number 39); Motion to suppress, filed by defendant on October 12, 2016 (document number 47) (government response to both motions, document number 54) (transcript of evidentiary hearing, document numbers 61, 62). A report and recommendation will be filed this week.

2. Motion to dismiss, filed by defendant on October 12, 2016 (document number 43) (government response, document number 50). A report and recommendation will be filed this week.

3. Motion in limine to limit testimony and for pretrial hearing to determine admissibility of statements under Federal Rules of Evidence 702 and 704(b), filed by defendant on October 12, 2016 (document number 44) (government response, document number 51).

4. Motion regarding submission of inconsistent statements, filed by defendant on October 12, 2016 (document number 45) (government response, document number 52). An order will be filed this week.

5. Motion in limine re: evidence and testimony under Rules 607 and 608, filed by defendant on October 12, 2016 (document number 46) (government response, document number 53).

IV. TRIAL WITNESSES

Mr. Green announced that the government intends to call 7 to 10 witnesses without stipulations or 4 to 5 witnesses with stipulations during the trial.

Defendant announced that he intends to call 6 witnesses during the trial. The defendant will testify.

V. TRIAL EXHIBITS

Mr. Green announced that the government will offer approximately 20 to 25 exhibits in evidence during the trial.

Defendant announced that he will offer approximately 5 exhibits in evidence during the trial.

VI. RULE 404(b) EVIDENCE

Mr. Green announced that the government will offer 404(b) or res gestae evidence during the trial.

Defendant announced that he will offer 404(b) or res gestae evidence during the trial.

VII. DEFENSES

Defendant announced that he will rely on the defense of general denial.

VIII. POSSIBLE DISPOSITION

Defendant stated this case is definitely for trial.

Mr. Green stated the government has not proposed a plea agreement to defendant Darrell Givens.

IX. STIPULATIONS

Stipulations have been presented to the defendant as to chemist's reports, prior felony conviction, interstate nexus of firearm; however, it is unlikely that the parties will agree on stipulations.

X. TRIAL TIME

Government counsel and the defendant were in agreement that this case will take 2 days to try.

XI. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by November 16, 2016;

That each party file and serve requested jury voir dire examination questions by or before noon, Tuesday, November 22, 2016;

That each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Tuesday, November 22, 2016. The parties are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

That each party file all signed stipulations by or before noon, Tuesday, November 22, 2016;

That seven days before the trial date as reflected in the forthcoming trial letter, if there is not a scheduled change-of-plea hearing, the parties shall make available for the opposing party to inspect, copy or photograph (1) all premarked trial exhibits, (2) any written statements that will be used at trial, and (3) Rule 404(b) and res gestae evidence to be offered at trial.

XII. UNUSUAL QUESTIONS OF LAW

Motions in limine have already been filed. There are no unusual questions of law.

XII. TRIAL SETTING

Government counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on November 28, 2016. The government requested the second week of the trial docket due to the unavailability of the case agent and material witness, who recently had surgery, the first week of the docket.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
November 16, 2016